

2005 DRAFTING REQUEST

Bill

Received: **09/23/2004**

Received By: **pkahler**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 6-8593**

By/Representing: **Milioto**

This file may be shown to any legislator: **NO**

Drafter: **pkahler**

May Contact:

Addl. Drafters:

Subject: **Public Assistance - misc**

Extra Copies: **DAK**

Submit via email: **NO**

Pre Topic:

DOA:.....Milioto, BB0021 -

Topic:

Administration of SSI program

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 10/21/2004	jdye 11/16/2004 jdye 11/19/2004		_____			State
/P1			pgreensl 11/19/2004	_____	lnorthro 11/19/2004		State
/P2	pkahler 12/20/2004	jdye 12/21/2004	pgreensl 12/22/2004	_____	lnorthro 12/22/2004		State
/1	pkahler 01/14/2005 gmalaise	jdye 01/15/2005	rschluet 01/18/2005	_____	sbasford 01/18/2005		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	01/14/2005			_____			
/2	pkahler 01/25/2005	jdye 01/26/2005	chaugen 01/26/2005	_____ _____	mbarman 01/26/2005		State
/3	pkahler 01/26/2005 gmalaise 01/26/2005	jdye 01/26/2005	chaugen 01/26/2005	_____ _____ _____ _____	sbasford 01/27/2005		

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/1	pkahler 01/14/2005 gmalaise	jdye 01/15/2005	rschlue 01/18/2005	_____	sbasford 01/18/2005		State

B 1/26 jld

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Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

01/14/2005

Ch 26
1-26
Ch 26
38

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/P1			pgreensl 11/19/2004	_____ _____	lnorthro 11/19/2004		State
/P2	pkahler 12/20/2004	jdye 12/21/2004	pgreensl 12/22/2004	_____ _____	lnorthro 12/22/2004		

FE Sent For:

1/15 jld

1/17 5:50P
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Addl. Drafters: *add GMM*

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1/?	pkahler	PI 11/9 JLD	11/9 P8	11/9 P8			

FE Sent For:

<END>

B.B0021

2003-05 Budget Bill Statutory Language Drafting Request

- Topic: Administration of SSI Program
- Tracking Code:
- SBO team: Health and Insurance
- SBO analyst: Steve Milioto
 - Phone: 266-8593
 - Email: steve.milioto@doa.state.wi.us
- Agency acronym: DHFS
- Agency number: 435

DHFS

Department of Health and Family Services 2005-2007 Biennial Budget Statutory Language Request September 21, 2004

Administration of SSI Program

Current Language

Currently s. 49.77 and s. 49.775 establish state supplemental payments and caretaker supplement payments for the support of children of supplemental security income recipients.

S. 49.197 and administrative rule require and authorize DHFS to investigate suspected fraud (forgery, counterfeiting, misrepresentation) on the part of participants or others related to the Medicaid, AFDC and Food Stamp programs. Significant instances of fraud occur related to SSI and Caretaker Supplement (CTS), but no requirement exists for DHFS to investigate and refer these episodes for prosecution. S. 49.197 also specifies that DHFS may contract with DWD to investigate suspected fraudulent activity on the part of recipients of Food Stamps and Medicaid.

Proposed Change

① Amend s. 49.77 and s. 49.775 to provide DHFS with specific statutory authority to promulgate rules to guide the administration of eligibility and benefit payment under the SSI and Caretaker Supplement programs. In addition, amend Chapter 46 to include language authorizing the Department to promulgate rules to recoup benefits in all DHFS programs, including SSI, CTS, and other programs. ②

③ Amend s. 49.197 and administrative code to include SSI and Caretaker Supplement among programs for which DHFS is required to investigate fraud. In addition, amend s.49.197 to specify that the Department of Workforce Development may contract with DHFS to investigate suspected fraudulent activity on the part of recipients of the W-2 and Child Care Programs. The appropriations cited to fund fraud activities under s. 49.197 also need to be changed to include the appropriate DHFS budget appropriations. ④ D-note

Effect of the Change

The changes will eliminate routine administrative hearing and court challenges to the Department's authority to recoup overpayments of benefit payments. Changes to s. 49.77, s. 49.775, and Chapter 46 would make explicit the Department's existing authority to promulgate rules for the SSI, Caretaker Supplement, and other programs. The proper statutory language will ensure that DHFS can recoup benefits that were paid out incorrectly.

Amendments to s. 49.197 would allow the Department to investigate fraud in the SSI and Caretaker Supplement programs. The potential recovery may be in excess of \$50,000 AF per year and will pay for any administrative costs incurred by performing the investigations. The changes would also make the section consistent with the current administrative practice and appropriations concerning the relationship between DHFS and DWD.

Rationale for the Change

Without the proper statutory language it is possible that the Department could lose the ability to recoup incorrectly paid benefits. The Department also faces challenges to its authority to recoup overpayments in other DHFS benefit programs, such as foster care and adoption assistance. Under the proposed statutory change, the Department expects to be able to pursue additional recoupments above the current level, resulting in an annual savings of (\$150,000) TANF in the SSI and Caretaker Supplement programs.

With no requirement for DHFS to investigate fraud for SSI and Caretaker Supplement, alleged frauds remain uninvestigated and are not referred for prosecution unless the dollar amount is sufficient to warrant involvement of Department of Justice. This creates a problem with program integrity and public and consumer perception of the program. At least 12 instances have occurred in each of the past 5 years, with alleged fraudulent activity between \$83 and \$10,000 per instance. The current language stating that DHFS may contract with DWD to perform fraud investigation activities is not consistent with the current administrative structure of the fraud program. DWD contracts to have DHFS carry out fraud investigations for DWD programs (Child Care, W-2). DHFS and DWD are close to signing a memorandum of understanding (MOU) which lays out these responsibilities. This statutory language change would be consistent with the proposed MOU.

Desired Effective Date:	Upon passage
Agency:	DHFS
Agency Contact:	Mark Resheske
Phone:	267-0356

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DIVISION OF EXECUTIVE BUDGET AND FINANCE
DOA-5167 N(R06/95)

FACSIMILE COVER MESSAGE

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TO		
Name	<i>Pam Kahler</i>	Facsimile Telephone Number <i>4-6948</i>
Location	<i>LRB</i>	Room Number Telephone Number
FROM (Sender)		
Name	<i>Steve Milio to</i>	Number of Pages Including This Cover Sheet Facsimile Telephone Number (608) 267-0372
Location	STATE BUDGET OFFICE 101 EAST WILSON STREET, 10TH FLOOR	<i>5</i> Telephone Number <i>6-8593</i>

COMMENTS / INSTRUCTIONS

DHFS

Department of Health and Family Services
2005-2007 Biennial Budget Issue Paper
August 17, 2004

Administration of SSI Program

Summary of Program

The State supplemental security income (SSI) program provides a cash supplement to low income elderly and disabled adults and disabled children, the majority of whom receive federal SSI payments. The Caretaker Supplement (CTS) program provides a cash benefit to SSI recipients who have dependent children.

The current statutory language in s. 49.197 specifies that DHFS may contract with DWD to investigate suspected fraudulent activity on the part of recipients of Food Stamps and Medicaid.

Problem Description

Two issues that currently affect the administration of SSI and CTS benefits are:

1. Advocates are challenging the Department's authority to recoup benefit overpayments from SSI and CTS clients.
2. The statutes do not give DHFS explicit authority to investigate SSI and CTS fraud cases.

In addition, the statutes need to be updated to reflect the current practices and funding used to investigate fraud. Specifically, to state that the Department of Workforce Development may contract with DHFS to investigate suspected fraudulent activity on the part of recipients of the W-2 and ChildCare Programs.

Background

1. The SSI program, authorized under Title XVI of the federal Social Security Act, provides cash benefits to low-income aged, blind, and disabled persons who meet certain financial and non-financial eligibility criteria. The SSI program is administered at the federal level by the Social Security Administration (SSA), which establishes uniform eligibility standards, federal benefit levels, and program policies and at the state level by DHFS. In FY 04, the average monthly caseload for SSI state supplemental payments was 96,200.
2. Beginning January 1, 1998, certain SSI recipients with dependent children began receiving a caretaker supplement to their SSI benefit. On November 1, 1999, the benefit was established at \$250 per month for one dependent child and \$150 per month for each additional dependent child. This benefit is a flat-rate benefit and is not affected by the amount of income an SSI recipient receives. In SFY 2004 an average of 5,926 SSI recipients received a caretaker supplement payment each month on behalf of 12,388 children.

3. State SSI benefits are funded entirely with GPR. CTS benefits are funded with a combination of GPR from the SSI GPR benefits appropriation and TANF. As a result, an increase or decrease in SSI or CTS benefit costs will increase or decrease TANF expenditures. In FY 04, DHFS expended \$8,502,337 GPR for state SSI benefits and \$3,434,622 GPR and \$26,838,388 TANF for CTS benefits.

Benefit Recoupment

4. Language to recoup incorrectly paid benefits for the SSI and Caretaker Supplement is in administrative rule. S. 49.77 and s. 49.775 in the statutes address state supplemental payments and payments for the support of children of SSI recipients. Advocates have initiated challenges arguing that the Department does not have explicit statutory authority to promulgate rules in SSI, Caretaker Supplement and other programs such as foster care and therefore cannot recoup payments. An amendment to s. 49.77 and s. 49.775 would provide DHFS with specific statutory authority to promulgate rules to guide the administration of eligibility and benefit payment under the SSI and Caretaker Supplement programs. The proper statutory language would ensure that DHFS could recoup benefits that were paid out incorrectly. A specific statutory requirement to promulgate rules would eliminate routine challenges of Department procedural practices via the administrative hearing process and avoid circuit court challenges to the Department's rulings on the issue. Without the proper statutory language it is possible that the Department could lose the ability to recoup incorrectly paid benefits, costing the SSI program alone an estimated \$150,000 TANF per year.
5. The Department also faces challenges to its authority to recoup overpayments in other DHFS benefit programs, such as foster care and adoption assistance. For this reason, this proposal requests statutory language authorizing the Department to promulgate rules to recoup benefits in all DHFS programs, including SSI, CTS, and other programs.

SSI and CTS Fraud Investigation

6. Instances of fraud occur related to SSI and Caretaker Supplement, but no statutory requirement exists for DHFS to investigate and refer these episodes for prosecution. With no requirement for DHFS to investigate fraud for SSI and Caretaker Supplement, alleged frauds remain uninvestigated and are not referred for prosecution unless the dollar amount is sufficient to warrant involvement of Department of Justice. This creates a problem with program integrity and public and consumer perception of the program. At least 12 instances have occurred in each of the past 5 years, with alleged fraudulent activity between \$83 and \$10,000 per instance.
7. Currently the state statute under s. 49.197 and administrative rule require and authorize DHFS to investigate suspected fraud (forgery, counterfeiting, misrepresentation) on the part of participants or others related to the Medicaid, AFDC and Food Stamp programs. Investigations could be required by amending s. 49.197 and administrative code to include SSI and Caretaker Supplement among programs for which DHFS is required to investigate

fraud. The potential recovery may be in excess of \$50,000 AF per year and will pay for any administrative costs incurred by performing the investigations. It is estimated that the 12 additional fraud investigations for SSI and CTS will cost approximately \$6,000 PR annually.

8. Local agencies (counties and tribes) that DHFS contracts with to administer the Medicaid and Food Stamp programs have a choice of providing fraud investigative services directly, contracting with their own vendor, or "opting out" of doing so and using the DHFS contracted investigative agency Interstate Reporting Company (IRC). The cost of performing a fraud investigation is approximately \$500 per investigation. There are 22 counties that "opted out" this year, including Milwaukee. The remaining counties are primarily small counties throughout the state that involve a low number of referrals. Local agencies would be responsible for CTS fraud investigations while the State of Wisconsin would be responsible for SSI fraud investigations. DHFS provides an annual (calendar year) allocation for fraud investigations to each county and tribal agency, based on available funding and the historical data for each agency (caseload size, amount spent on investigations in prior years, etc.). The FY 04 total allocation to counties for fraud investigations was \$1,275,500. If the local agency provides the service, or subcontracts for the service, it files a claim with DHFS and is paid from the county allocation. For agencies that opt to use the State contracted investigative agency IRC, IRC files the claim, and the claim is drawn down against the county or tribal annual allocation.

Revising the Fraud Investigation Statutes

9. In addition to adding Caretaker Supplement and SSI to the Fraud investigation statutes, s.49.197 needs to be further amended to specify that the Department of Workforce Development may contract with DHFS to investigate suspected fraudulent activity on the part of recipients of the W-2 and ChildCare Programs.
10. The current language states that DHFS may contract with DWD to perform fraud investigation activities. This is not consistent with the current administrative structure of the fraud program. The fraud and error reduction staff was transferred from DWD to DHFS when the Food Stamps program was transferred to DHFS in 2002. Since then DHFS has assumed the responsibility for fraud and error reduction for Food Stamps and Medicaid and has agreed with DWD to provide these functions for W-2 and Child-Care. The statutes need to be amended to allow DHFS to investigate fraud for all income maintenance programs and also allow DWD to contract with DHFS to perform Child-Care and W-2 fraud investigations. The appropriations cited to fund fraud activities under s. 49.197 also need to be changed to include the appropriate DHFS budget appropriations.
11. DHFS and DWD are close to signing a memorandum of understanding (MOU) which lays out these responsibilities. This statutory language change would be consistent with the proposed MOU.

Alternatives

1. Amend s. 49.77 and s. 49.775 to provide DHFS with specific statutory authority to promulgate rules to guide the administration of eligibility and benefit payment under the SSI and Caretaker Supplement programs. Reduce funding for CTS benefits by \$150,000 TANF. In addition, request statutory language in s. 49.197 authorizing the Department to promulgate rules to recoup benefits in all DHFS programs and update the fraud investigation statutes to be consistent with the current administrative structure. (i.e., that DWD contracts with DHFS)
2. Amend s. 49.197 and s. 20.435(4)(L) to include SSI and Caretaker Supplement among programs for which DHFS is required to investigate fraud for estimated savings of \$50,000 AF. Request an increase of \$6,000 PR in spending authority for numeric 461 and revise the title of the numeric to include SSI and CTS (Medical Assistance and Food Stamps Fraud and Error Reduction).
3. Make no changes.

Recommendation

Alternatives 1 and 2.

✓ authority to administer 49.77 & 49.775
those sections

✓ ch 46 → add to ~~46.03~~ may
46.03 promulgate rules to
recover ~~benefits~~ payments to
incorrectly paid

under programs administered
by the dept under ~~chs 46, 49~~
chs 46, 49, & 51

49.197

fraud investigation

move to last subch.

[W-2 → W-2 & 49.19
DFHS → MA, food stamps, SSI, CTS, Budget Care

~~for DFHS~~

DFHS appropriations:

Kahler, Pam

From: Forsaith, Andrew
Sent: Thursday, October 14, 2004 4:26 PM
To: Kahler, Pam
Cc: Steve Milioto; Resheske, Mark
Subject: Administration of SSI Program draft

Pam: the DHFS appropriations that should be referenced under s. 49.197(1m) are s.20.435(4)(bn), (kz), (L), (nn). These are the appropriations that fund income maintenance contracts to counties (the contract that funds county administration of eligibility determination for public assistance programs) and also the program revenue fraud investigation appropriation.

(bn) → inc maint.
(kz) → local assist
(L) → fraud reduction
(nn) → fed aid, inc maint



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-0265/5

PJK:.....

TODAY 11/19

DOA:.....Milioto, BB0021 - Administration of SSI program

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget. ✓

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES ✓

PUBLIC ASSISTANCE ✓

Under one program under current law, low-income individuals who are eligible to receive federal supplemental security income (SSI) because they are blind, disabled, or 65 years of age or older are eligible to receive a state supplemental payment. Under another program under current law, an individual who receives SSI or state supplemental payments, or both, and who is a custodial parent of a dependent child is eligible to receive monthly payments for the support of the dependent child. DHFS administers both of the programs. This bill expressly provides that DHFS shall administer both programs and promulgate rules for the administration of the programs.

DHFS administers a number of programs under current law under which persons who satisfy eligibility criteria receive financial, health care, or other types of assistance. This bill specifically authorizes DHFS to recover benefits incorrectly paid under any of the assistance programs that it administers and to promulgate rules for that recovery.

Under current law, DWD is required to investigate suspected fraudulent activity on the part of participants in the Aid to Families with Dependent Children (AFDC) program and participants in the Wisconsin Works (W-2) program and to conduct activities to reduce payment errors in W-2. DHFS is authorized to contract

with DWD for DWD to investigate suspected fraudulent activity and to conduct activities to reduce payment errors in two programs administered by DHFS: the Medical Assistance (MA) program and the food stamp program. In actual practice, DHFS has established a program to investigate fraudulent activity and reduce payment errors in MA and the food stamp program, and DWD contracts with DHFS for DHFS to investigate fraudulent activity on the part of participants in AFDC and participants in W-2 and to conduct activities to reduce payment errors in W-2.

This bill changes the statutory language so that DHFS is required to investigate suspected fraudulent activities and to conduct activities to reduce payment errors in the programs that it administers and DWD is authorized to contract with DHFS to investigate suspected fraud and conduct payment error reduction activities in the programs that DWD administers. In addition, the bill adds three DHFS-administered programs to the programs for which DHFS must investigate fraudulent activity and conduct payment error reduction activities: the Badger Care health care program, the program under which DHFS provides state supplemental payments to persons eligible to receive SSI, and the program under which DHFS makes monthly payments for the support of dependent children to custodial parents who are receiving SSI or state supplemental payments.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.435 (4) (L) of the statutes is amended to read:

20.435 (4) (L) ~~Medical assistance~~ Assistance and food stamp fraud and error reduction. All moneys received as the state's share of the recovery of overpayments and incorrect payments under ss. 49.497 (1) and 49.793 (2) and all moneys received from counties and tribal governing bodies as a result of any error reduction activities in the ~~medical assistance~~ Medical Assistance and food stamp programs under ss. 49.45 (2) (a) 3m., 49.197, and 49.79 (9) s. 49.97, for ~~contracts under s. 49.197 (5), for~~ any activities to reduce error and fraud under ss. 49.45 (2) (a) 3m. and 49.79 (9) s. 49.97, to pay federal sanctions under the food stamp program, and for food stamp reinvestment activities under reinvestment agreements with the federal department of agriculture that are designed to improve the food stamp program.

History: 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977

NOTE: BUD

c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32, 52, 84, 103, 109, 113, 133, 185, 186; 2001 a. 16, 69, 103, 105; 2003 a. 33, 139, 186, 318, 320, 326, 327.

****NOTE: Does this appropriation text need to be expanded to cover more than MA and the food stamp program?

SECTION 2. 20.445 (3) (dz) of the statutes is amended to read:

20.445 (3) (dz) *Temporary Assistance for Needy Families programs; maintenance of effort.* The amounts in the schedule, less the amounts withheld under s. 49.143 (3), for administration and benefit payments under Wisconsin Works under ss. 49.141 to 49.161, the learnfare program under s. 49.26, and the work experience program for noncustodial parents under s. 49.36; for payments to local governments, organizations, tribal governing bodies, and Wisconsin Works agencies; for emergency assistance for families with needy children under s. 49.138; and for job access loans under s. 49.147 (6). Payments may be made from this appropriation for contracts under s. 49.97 (5) or for any fraud investigation and error reduction activities under s. 49.197 (1m) 49.32 (7m). Moneys appropriated under this paragraph may be used to match federal funds received under par. (md). Notwithstanding ss. 20.001 (3) (a) and 20.002 (1), the department may transfer funds between fiscal years under this paragraph. Notwithstanding ss. 20.001 (3) and 20.002 (1), the department of health and family services shall credit or deposit into this appropriation account funds for the purposes of this appropriation that the department transfers from the appropriation account under s. 20.435 (7) (bc). All funds allocated by the department but not encumbered by December 31 of each year lapse to the general fund on the next January 1 unless transferred to the next calendar year by the joint committee on finance.

History: 1971 c. 125 ss. 156, 522 (1); 1971 c. 211, 213; 1971 c. 228 s. 44; 1971 c. 259; 1973 c. 90, 180, 243, 333; 1975 c. 39, 147, 224, 274, 344; 1975 c. 404 ss. 3, 10 (1); 1975 c. 405 ss. 3, 11 (1); 1977 c. 29, 48, 203, 418; 1979 c. 34 ss. 512 to 522, 2102 (25) (a); 1979 c. 189, 221, 309; 1979 c. 329 s. 25 (1); 1979 c. 350 ss. 3, 27 (6); 1979 c. 353, 355; 1981 c. 20, 36, 92, 93, 317, 325, 364; 1983 a. 8; 1983 a. 27 ss. 411 to 425; 1983 a. 98 ss. 1, 31; 1983 a. 192, 384, 388, 410; 1985 a. 17, 29, 153, 313, 332; 1987 a. 27; 1987 a. 38 ss. 2 to 4, 136; 1987 a. 399, 403; 1989 a. 31, 44, 64, 77, 254, 284, 359; 1991 a. 39 ss. 372c, 545f, 545t, 545v, 547, 548, 548g, 548m, 549, 549b, 549g, 549p; 1991 a. 85.

LPS-
already
deleted

lapse to the general fund on the next January 1 unless transferred to the next calendar year by the joint committee on finance.

History: 1971 c. 125 ss. 156, 522 (1); 1971 c. 211, 215; 1971 c. 228 s. 44; 1971 c. 259; 1973 c. 90, 180, 243, 333; 1975 c. 39, 147, 224, 274, 344; 1975 c. 404 ss. 3, 10 (1); 1975 c. 405 ss. 3, 11 (1); 1977 c. 29, 48, 203, 418; 1979 c. 34 ss. 512 to 522, 2102 (25) (a); 1979 c. 189, 221, 309; 1979 c. 329 s. 25 (1); 1979 c. 350 ss. 3, 27 (6); 1979 c. 353, 355; 1981 c. 20, 36, 92, 93, 317, 325, 364; 1983 a. 8; 1983 a. 27 ss. 411 to 425; 1983 a. 98 ss. 1, 31; 1983 a. 192, 384, 388, 410; 1985 a. 17, 29, 153, 313, 332; 1987 a. 27; 1987 a. 38 ss. 2 to 4, 136; 1987 a. 399, 403; 1989 a. 31, 44, 64, 77, 254, 284, 359; 1991 a. 39 ss. 372c, 545r, 545t, 545v, 547, 548, 548g, 548m, 549, 549b, 549g, 549p; 1991 a. 85, 89, 269, 315; 1993 a. 16, 126, 243, 437, 491; 1995 a. 27 ss. 772mm, 772mn, 776p to 778b, 778L, 778n, 778q, 778v, 778z to 780m, 781m to 782p, 782u, 841, 842, 849, 850, 854, 855, 858c, 873 to 876, 878, 880, 890 to 896, 962 to 1014c, 9126 (19), 9130 (4); 1995 a. 113 s. 2t; 1995 a. 117, 201, 216, 225, 289; 1995 a. 404 ss. 4, 6 to 8, 10 to 17; 1997 a. 3; 1997 a. 27 ss. 610 to 642m, 722; 1997 a. 35, 38, 39, 105, 112, 191, 235, 236, 237, 252; 1999 a. 9 ss. 270, 458 to 478; 1999 a. 15, 32; 2001 a. 16, 35, 43, 104, 109; 2003 a. 33, 197.

SECTION 3. 20.445 (3) (L) of the statutes is amended to read:

20.445 (3) (L) *Public assistance overpayment recovery and fraud and error reduction.* All moneys received as the state's share of the recovery of overpayments and incorrect payments under s. 49.191 (3) (c), 1997 stats., and s. 49.195, 1997 stats., for contracts under s. 49.97 (5) or for any activities to reduce error and fraud under s. 49.197 49.32 (7m) relating to the Aid to Families with Dependent Children program and the Wisconsin Works program.

History: 1971 c. 125 ss. 156, 522 (1); 1971 c. 211, 215; 1971 c. 228 s. 44; 1971 c. 259; 1973 c. 90, 180, 243, 333; 1975 c. 39, 147, 224, 274, 344; 1975 c. 404 ss. 3, 10 (1); 1975 c. 405 ss. 3, 11 (1); 1977 c. 29, 48, 203, 418; 1979 c. 34 ss. 512 to 522, 2102 (25) (a); 1979 c. 189, 221, 309; 1979 c. 329 s. 25 (1); 1979 c. 350 ss. 3, 27 (6); 1979 c. 353, 355; 1981 c. 20, 36, 92, 93, 317, 325, 364; 1983 a. 8; 1983 a. 27 ss. 411 to 425; 1983 a. 98 ss. 1, 31; 1983 a. 192, 384, 388, 410; 1985 a. 17, 29, 153, 313, 332; 1987 a. 27; 1987 a. 38 ss. 2 to 4, 136; 1987 a. 399, 403; 1989 a. 31, 44, 64, 77, 254, 284, 359; 1991 a. 39 ss. 372c, 545r, 545t, 545v, 547, 548, 548g, 548m, 549, 549b, 549g, 549p; 1991 a. 85, 89, 269, 315; 1993 a. 16, 126, 243, 437, 491; 1995 a. 27 ss. 772mm, 772mn, 776p to 778b, 778L, 778n, 778q, 778v, 778z to 780m, 781m to 782p, 782u, 841, 842, 849, 850, 854, 855, 858c, 873 to 876, 878, 880, 890 to 896, 962 to 1014c, 9126 (19), 9130 (4); 1995 a. 113 s. 2t; 1995 a. 117, 201, 216, 225, 289; 1995 a. 404 ss. 4, 6 to 8, 10 to 17; 1997 a. 3; 1997 a. 27 ss. 610 to 642m, 722; 1997 a. 35, 38, 39, 105, 112, 191, 235, 236, 237, 252; 1999 a. 9 ss. 270, 458 to 478; 1999 a. 15, 32; 2001 a. 16, 35, 43, 104, 109; 2003 a. 33, 197.

SECTION 4. 46.03 (44) of the statutes is created to read:

46.03 (44) **RECOVERING INCORRECT PAYMENTS RULES.** The department may recover, and may promulgate rules for the recovery of, benefits incorrectly paid under any of the programs administered by the department under chs. 49 and 51. *this chapter and*

SECTION 5. 49.197 of the statutes is renumbered 49.97 and amended to read:

49.97 Fraud investigation and reduction and error reduction. (1m)

FRAUD INVESTIGATION. From the appropriations under s. 20.445 (3) (dz), (kx), (L), (md), (n), and (nL) 20.435 (4) (bn), (kz), (L), and (nn), the department of health and family services shall establish a program to investigate suspected fraudulent activity on the part of recipients of aid to families with dependent children under s. 49.19, on the part of participants in the Wisconsin works program under ss. 49.141

1 to 49.161, medical assistance under subch. IV, food stamp benefits under the food
2 stamp program under 7 USC 2011 to 2036, supplemental security income payments
3 under s. 49.77, payments for the support of children of supplemental security income
4 recipients under s. 49.775, and health care benefits under the Badger Care health
5 care program under s. 49.665 and, if the department of ~~health and family services~~
6 workforce development contracts with the department of health and family services
7 under sub. (5), on the part of recipients of ~~medical assistance under subch. IV and~~
8 ~~food stamp benefits under the food stamp program under 7 USC 2011 to 2036 aid to~~
9 families with dependent children under s. 49.19 and on the part of participants in
10 the Wisconsin Works program under ss. 49.141 to 49.161. The department's
11 activities of the ^{department} ~~department~~ of health and family services under this subsection may
12 include, but are not limited to, comparisons of information provided to the
13 department by an applicant and information provided by the applicant to other
14 federal, state, and local agencies, development of an advisory welfare investigation
15 prosecution standard, and provision of funds to county departments under ss.
16 46.215, 46.22, and 46.23 and to Wisconsin ~~works~~ Works agencies to encourage
17 activities to detect fraud. The department of health and family services shall
18 cooperate with district attorneys regarding fraud prosecutions.

19 (3) STATE ERROR REDUCTION ACTIVITIES. The department of health and family
20 services shall conduct activities to reduce payment errors in Wisconsin works under
21 ss. 49.141 to 49.161 ^{that is corrected} ~~the~~ Medical Assistance program under subch. IV, the food stamp
22 program under 7 USC 2011 to 2036, the supplemental security income payments
23 program under s. 49.77, the program providing payments for the support of children
24 of supplemental security income recipients under s. 49.775, and the Badger Care
25 health care program under s. 49.665 and, if the department of ~~health and family~~

1 ~~services~~ workforce development ✓ contracts with the department of health and family
2 services under sub. (5), ~~the medical assistance program under subch. IV and the food~~
3 ~~stamp program under 7 USC 2011 to 2036 in Wisconsin Works under ss. 49.141 to~~
4 49.161. ✓

5 (4) ~~COUNTY AND TRIBAL~~ ✓ WISCONSIN WORKS AGENCY ERROR REDUCTION. If the
6 department of ~~health and family services~~ workforce development contracts with the
7 department of health and family services under sub. (5), the department of health
8 and family services shall provide funds from the appropriation under s. 20.445 (3)
9 ~~(kx) to counties and governing bodies of federally recognized American Indian tribes~~
10 ~~administering medical assistance under subch. IV or the food stamp program under~~
11 ~~7 USC 2011 to 2036~~ 20.435 (3) (kz) ✓ to Wisconsin Works agencies to offset the
12 ~~administrative costs of reducing payment errors in these programs~~ Wisconsin Works
13 under ss. 49.141 to 49.161.

14 (5) ~~CONTRACTS~~ CONTRACT ~~FOR MEDICAL ASSISTANCE AND FOOD STAMPS~~ WISCONSIN
15 WORKS. ✓ The department of ~~health and family services~~ workforce development may
16 contract with the department of health and family services to investigate suspected
17 fraudulent activity on the part of recipients of ~~medical assistance under subch. IV~~
18 ~~or recipients of food stamp benefits under the food stamp program under 7 USC 2011~~
19 ~~to 2036~~ participants in Wisconsin Works ✓ under ss. 49.141 to 49.161 as provided in
20 this section.

History: 1985 a. 29, 176; 1987 a. 27, 413; 1989 a. 31; 1991 a. 89; 1995 a. 27, 289; 1997 a. 27, 35; 2001 a. 16.

21 **SECTION 6.** 49.32 (7m) of the statutes is created to read:

22 49.32 (7m) FRAUD INVESTIGATION AND ERROR REDUCTION. ✓ If the department ✓ does
23 not contract with the department of health and family services ✓ under s. 49.97 (5), ✓ the
24 department shall establish a program to investigate suspected fraudulent activity

1 on the part of recipients of aid to families with dependent children under s. 49.19 and
2 on the part of participants in Wisconsin Works under ss. 49.141 to 49.161 and shall
3 establish a program to reduce payment errors in Wisconsin Works under ss. 49.141
4 to 49.161.

5 **SECTION 7.** 49.45 (2) (a) 3m. of the statutes is repealed.

6 **SECTION 8.** 49.78 (8) (a) of the statutes is amended to read:

7 49.78 (8) (a) From the appropriation accounts under s. 20.435 (4) (bn) and (nn)
8 and subject to par. (b), the department shall reimburse each county and tribal
9 governing body that contracts with the department under sub. (2) for reasonable
10 costs of administering the income maintenance programs. The amount of each
11 reimbursement paid under this paragraph shall be calculated using a formula based
12 on workload within the limits of available state and federal funds under s. 20.435 (4)
13 (bn) and (nn) by contract under sub. (2). ~~The amount of reimbursement calculated~~
14 ~~under this paragraph and par. (b) is in addition to any reimbursement provided to~~
15 ~~a county or tribal governing body for fraud and error reduction under s. 49.197 (1m)~~
16 ~~and (4).~~

History: 1995 a. 27 ss. 2041 to 2049, 2933 to 2936, 3084 to 3087, 3130; 1995 a. 289, 417; 1997 a. 27; 2001 a. 16; 2003 a. 33 ss. 1308, 1448, 9160; Stats. 2003 s. 49.78.

17 **SECTION 9.** 49.77 (6) of the statutes is created to read:

18 49.77 (6) **AUTHORITY TO ADMINISTER AND PROMULGATE RULES.** The department
19 shall administer and promulgate rules for the administration of this section and s.
20 49.775.

21 **SECTION 10.** 49.79 (9) of the statutes is repealed.

22 **SECTION 11.** 978.05 (4m) of the statutes is amended to read:

1 978.05 (4m) WELFARE FRAUD INVESTIGATIONS. Cooperate with the department
2 of ~~workforce development~~ health and family services regarding the fraud
3 investigation program under s. ~~49.197~~ [✓] 49.97 (1m).

History: 1989 a. 31, 117, 336; 1991 a. 16, 32, 39; 1993 a. 98; 1995 a. 27 ss. 7291, 7292, 9116 (5), 9130 (4); 1995 a. 77, 201, 448; Sup. Ct. Order No. 96-08, 207 Wis. 2d
xv (1997); 1997 a. 3, 35, 73; 1999 a. 9; 2001 a. 16.

(END)

D-note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0265/dn

PJK:.....

RP1
Jld

Steve:

Since the actions of DHFS and DWD are actually switched from how they are represented in s. 49.197, I renumbered 49.197 into a different subchapter and switched the agencies and the programs. That does create some problems with other statutes, though, and I wasn't sure how to treat some of them.

* How should the record matching under ss. 49.32 (7) (b), (c), and (d) and 49.45 (40) be treated? Obviously the language about DHFS contracting under s. 49.197 (5) needs to come out in any case, but what do you want to do about the requirement to do record matches? Is DWD doing it now? Is DHFS doing it now? If not, do you want each agency to do it for its own programs? Do you want only DHFS to do it and to do it for both agencies' programs if DWD contracts under s. 49.97 (5)? Do you want to keep the language as is, except for the contracting part? (7)

* Proposed s. 46.03 (44) is redundant of ss. 49.497 and 49.473, but they are much more detailed so I didn't want to get rid of them. Also, I didn't want to exclude those two programs from proposed s. 46.03 (44).

* Note that DWD is required to recover overpayments of W-2 benefits under s. 49.161. What effect does that have on proposed s. 49.97 (4)? Does it make sense for DHFS to conduct activities to reduce payment errors in Wisconsin Works, as is provided in proposed s. 49.97 (3), which is renumbered and amended s. 49.197 (3)? If it does, proposed s. 49.97 (5), which is renumbered and amended s. 49.197 (5), should mention reducing payment errors, in addition to investigating suspected fraudulent activity.

Do any other appropriations need to be changed because of the changes in this draft? Do we need to create any new appropriation(s), such as for receipt of overpayment recoveries under any DHFS programs as a result of the creation of s. 46.03 (44)? See my ****NOTE after s. 20.435 (4) (L).

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0265/P1dn
PJK:jld:pg

November 19, 2004

Steve:

Since the actions of DHFS and DWD are actually switched from how they are represented in s. 49.197, I renumbered 49.197 into a different subchapter and switched the agencies and the programs. That does create some problems with other statutes, though, and I wasn't sure how to treat some of them.

How should the record matching under ss. 49.32 (7) (b), (c), and (d) and 49.45 (40) be treated? Obviously the language about DHFS contracting under s. 49.197 (5) needs to come out in any case, but what do you want to do about the requirement to do record matches? Is DWD doing it now? Is DHFS doing it now? If not, do you want each agency to do it for its own programs? Do you want only DHFS to do it and to do it for both agencies' programs if DWD contracts under s. 49.97 (5)? Do you want to keep the language as is, except for the contracting part?

Proposed s. 46.03 (44) is redundant of ss. 49.473 and 49.497, but they are much more detailed so I didn't want to get rid of them. Also, I didn't want to exclude those two programs from proposed s. 46.03 (44).

Note that DWD is required to recover overpayments of W-2 benefits under s. 49.161. What effect does that have on proposed s. 49.97 (4)? Does it make sense for DHFS to conduct activities to reduce payment errors in Wisconsin Works, as is provided in proposed s. 49.97 (3), which is renumbered and amended s. 49.197 (3)? If it does, proposed s. 49.97 (5), which is renumbered and amended s. 49.197 (5), should mention reducing payment errors, in addition to investigating suspected fraudulent activity.

Do any other appropriations need to be changed because of the changes in this draft? Do we need to create any new appropriation(s), such as for receipt of overpayment recoveries under any DHFS programs as a result of the creation of s. 46.03 (44)? See my ****NOTE after s. 20.435 (4) (L).

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.state.wi.us

rulemaking S/b ok

Gordon → administered under what chapter? ch 48?
keep 49.197 but add the other one for DTFs too?
add "reducing benefits" language? s. 49.19(17)

Kahler, Pam

From: Milioto, Steve
Sent: Wednesday, December 01, 2004 9:48 AM
To: Kahler, Pam
Subject: FW: Fwd: FW: LRB Draft: 05-0265/P1 Administration of SSI program

Hi Pam --

Here are some comments from the department regarding the questions you posed to draft 265. I apologize that it's in somewhat cumbersome format. Best, Steve

-----Original Message-----

From: Resheske, Mark
Sent: Wednesday, December 01, 2004 9:20 AM
To: Milioto, Steve
Subject: Re: Fwd: FW: LRB Draft: 05-0265/P1 Administration of SSI program

An addition to the earlier e-mail.

-----Original Message-----

Date: 11/30/2004 04:49 pm -0600 (Tuesday)
From: Shelley Malofsky
To: Forsaith, Andrew
CC: Luedtke, Kathleen; Resheske, Mark
Subject: Re: Fwd: FW: LRB Draft: 05-0265/P1 Administration of SSI program

yes 227.11(2) states that rule-making authority is expressly conferred upon each agency for any statute it enforces or administers. Since 49.77(6) states that the dept administers the programs, taking the two statutory provisions together should get you rule-making authority. It certainly is less direct than simply saying that the dept may promulgate rules, but it might be current drafting style. I think you should confirm this with Pam.

* * * * *

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>>> Andrew Forsaith Tuesday, November 30, 2004 4:27:49 PM >>>

Shelley -- one follow up question: Among other things, we are requesting explicit statutory authority to promulgate rules for the SSI and CTS programs. I think Pam attempts to do so in section 8 of the draft, creating 49.77(6). Is that language adequate? *supposedly*

>>> Shelley Malofsky 11/22/04 11:21AM >>>

I don't see her question about the administration of the SSI program, but Kathy Luedtke should probably weigh in on any such questions.

how?? However, the 46.03(44) does not accomplish what we wanted. We already operate under the common law concept that we can recover overpayments. The issue is how. We wanted explicit authority that we may collect through (involuntary) administrative recoupments -- like reducing benefits that we had in the old AFDC and still food stamps. So, her language is good, but it needs more. Also, we want the recoupment to cover benefits paid under ch. 48 (foster care, adoption assistance, kinship care). Pam should make sure that 'programs administered under ch. 46' will cover this. *?? Gordon*

* * * * *

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further disclosure of the information by the recipient must be consistent with applicable laws, regulations and agreements. If you received this email in error, please notify the sender; delete the email; and do not use, disclose or store the information it contains.

>>> Mark Resheske Monday, November 22, 2004 7:24:48 AM >>>
Hello,

Would any of you care to comment on Pams questions about the stat. language for the administration of the SSI program? For the last question on her sheet, I don't believe we need to create any new appropriations as a result of the change. Thanks,

Mark Resheske
OSF

Kahler, Pam

From: Milioto, Steve
Sent: Wednesday, December 01, 2004 9:49 AM
To: Kahler, Pam
Subject: FW: FW: LRB Draft: 05-0265/P1 Administration of SSI program



05-0265P1.pdf



05-0265P1dn.pdf

Hi Pam --

Further comment from the department regarding draft 265. Again, my apologies for the scattered nature of all this. Best, Steve

-----Original Message-----

From: Resheske, Mark
Sent: Wednesday, December 01, 2004 9:21 AM
To: Milioto, Steve
Subject: Fwd: FW: LRB Draft: 05-0265/P1 Administration of SSI program

Again I'm still waiting for Joannes response. Thanks,

Mark

-----Original Message-----

Date: 11/30/2004 11:08 am -0600 (Tuesday)
From: Curtis Cunningham
To: Resheske, Mark; Simpson, Joanne
CC: McIlquham, Cheryl
Subject: Fwd: FW: LRB Draft: 05-0265/P1 Administration of SSI program

Mark,

Our original intent was to not establish a separate section of the statute since it is my understanding that we did not feel that we wanted to take DWD's authority to do fraud prevention away we just wanted to add to the statutes that we would be able to investigate for our programs. I think Joanne Simpson is the person in eligibility that would be able to address some of these questions.

Joanne,

Am I right to think that DWD needs to retain some of this authority and that we don't want to revise the statutes to eliminate their ability to investigate fraud? Could you look at the stat. language and drafters notes and let Mark and I know if you have any comments? If it is easier let me know and I can just come up and talk with you about this.

Thanks,
Curtis

-----Original Message-----

Date: 11/22/2004 07:24 am -0600 (Monday)
From: Mark Resheske
To: Cunningham, Curtis; Jones, James; Malofsky, Shelley
Subject: Fwd: FW: LRB Draft: 05-0265/P1 Administration of SSI program

Hello,

Would any of you care to comment on Pams questions about the stat. language for the

administration of the SSI program? For the last question on her sheet, I don't believe we need to create any new appropriations as a result of the change. Thanks,

Mark Resheske
OSF

-----Original Message-----

Date: 11/19/2004 10:57 am -0600 (Friday)
From: Milioto, Steve
To: Resheske, Mark
CC: Johnston, James, Fath, Erin
Subject: FW: LRB Draft: 05-0265/P1 Administration of SSI program

Hi Mark --

Please see Pam's drafting note and forward your responses to me. I will send them to Pam.
Best, Steve

-----Original Message-----

From: Greenslet, Patty [mailto:Patty.Greenslet@legis.state.wi.us]
Sent: Friday, November 19, 2004 10:53 AM
To: Milioto, Steve
Cc: Johnston, James; Hanaman, Cathlene; Haugen, Caroline; Schaeffer, Carole
Subject: LRB Draft: 05-0265/P1 Administration of SSI program

Following is the PDF version of draft 05-0265/P1.

Kahler, Pam

From: Resheske, Mark
Sent: Friday, December 10, 2004 3:15 PM
To: Steve Milioto; Kahler, Pam
Subject: Re: LRB -0265

Hi Pam, Hopefully this clears things up. The answers are in bold after your questions. I will get you the statutory citation that Shelly was mentioning (for methodology) on Mon. for question #3. Let me know if you need anything else. Thanks,

Mark

>>> "Kahler, Pam" <Pam.Kahler@legis.state.wi.us> 12/10/04 02:01PM >>>
Hi, Mark:

If you would like a revised list of questions as a result of the comments I received by email, here it is:

1. From a question Curtis had, it appears that DHFS may not want to replace s. 49.197. Do you want to keep s. 49.197 and also create a new section that does just the reverse, i.e., requires DHFS to establish a fraud and error reduction program with DWD having the ability to contract with DHFS for DHFS to conduct those activities for the DWD programs? Yes, this would be best in terms of giving us authority and leaving DWD's authority intact.

2. It appears that there may be ch. 48 programs that need to be included in proposed s. 46.03 (44) so that ch. 48 needs to be added to that proposed provision. Is that correct? Yes, ch. 48 programs should be included.

3. It appears that you would like to have statutory authority not only to recover incorrect payments but to recover them in a particular way. If that is correct, please let me know the particular method that you would like authority for, if that method is used in any other program, and, if so, what the statutory citation is. I will get the citation when Shelly returns Monday. She did mention that we're looking for explicit authority so that we may collect, through (involuntary) administrative recoupments, like we currently do for food stamps and did for reducing benefits of the old AFDC. I'm not sure if that's helpful, again I'll get a citation for you when Shelly returns.

4. There was some concern about whether DHFS needs explicit authority to promulgate rules for programs that it administers. If DHFS administers a program, DHFS has authority under ch. 227 to promulgate rules for the program. If you want or need a specific rule and you think you may need authority in addition to the authority in ch. 227 to promulgate it, then the statute can require that you promulgate rules that say or do something specific. We are looking for explicit statutory authority to promulgate rules to guide the administration of eligibility and benefit payment under the SSI and Caretaker Supplement programs and to recoup benefits for the SSI, CTS and all other DHFS programs. Perhaps it would be more precise to mention it here as well instead of solely relying on ch. 227.

Pam

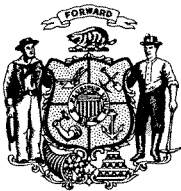
Kahler, Pam

From: Resheske, Mark
Sent: Tuesday, December 14, 2004 11:07 AM
To: Milioto, Steve; Kahler, Pam
Subject: LRB Draft: 05-0265/P1 Administration of SSI program

Hi there,

The AFDC language is at 49.19(17) and food stamps is at 49.793(1) but that is only a cross- references to the federal recovery method. Thanks for your patience,

Mark



State of Wisconsin
2005 - 2006 LEGISLATURE

12/28

LRB-0265/04

PJK:jld:pg

+GMM

minimum

DOA:.....Milioto, BB0021 - Administration of SSI program

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

D-note

do not
get cut

1 AN ACT relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

PUBLIC ASSISTANCE

Under one program under current law, low-income individuals who are eligible to receive federal supplemental security income (SSI) because they are blind, disabled, or 65 years of age or older are eligible to receive a state supplemental payment. Under another program under current law, an individual who receives SSI or state supplemental payments, or both, and who is a custodial parent of a dependent child is eligible to receive monthly payments for the support of the dependent child. DHFS administers both of the programs. This bill expressly provides that DHFS shall administer both programs. → insert A-1 ✓

DHFS administers a number of programs under current law under which persons who satisfy eligibility criteria receive financial, health care, or other types of assistance. This bill specifically authorizes DHFS to recover benefits incorrectly paid under any of the assistance programs that it administers. → insert A-2 ✓

Under current law, DWD is required to investigate suspected fraudulent activity on the part of participants in the Aid to Families with Dependent Children (AFDC) program and participants in the Wisconsin Works (W-2) program and to conduct activities to reduce payment errors in W-2. DHFS is authorized to contract with DWD for DWD to investigate suspected fraudulent activity and to conduct activities to reduce payment errors in two programs administered by DHFS: (the) ✓

plain

public assistance

plain
~~Medical Assistance (MA) program~~ and the food stamp program. In actual practice, DHFS has established a program to investigate fraudulent activity and reduce payment errors in MA and the food stamp program, and DWD contracts with DHFS for DHFS to investigate fraudulent activity on the part of participants in AFDC and participants in W-2 and to conduct activities to reduce payment errors in W-2. *also*

Insert A-3
must be investigated
 This bill ~~changes the statutory language so that~~ DHFS is required to investigate suspected fraudulent activities and to conduct activities to reduce payment errors in the programs that it administers and DWD is authorized to contract with DHFS to investigate suspected fraud and conduct payment error reduction activities in the programs that DWD administers. In addition, the bill adds three DHFS-administered programs to the programs for which ~~DHFS must investigate~~ *Insert A-4* *must be conducted* fraudulent activity and ~~conduct~~ payment error reduction activities: the Badger Care health care program, the program under which DHFS provides state supplemental payments to persons eligible to receive SSI, and the program under which DHFS makes monthly payments for the support of dependent children to custodial parents who are receiving SSI or state supplemental payments.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

Insert GMM
The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 20.435 (4) (L) of the statutes is amended to read:

2 20.435 (4) (L) *Medical assistance* Assistance and food stamp fraud and error
 3 reduction. All moneys received as the state's share of the recovery of overpayments
 4 and incorrect payments under ss. 49.497 (1) and 49.793 (2) and all moneys received
 5 from counties and tribal governing bodies as a result of any error reduction activities
 6 in the ~~medical assistance~~ Medical Assistance and food stamp programs under ss.
 7 49.45 (2) (a) 3m., *plain* 49.197, and 49.79 (9) ~~ss.~~ *and* 49.97, for *plain* contracts under s. 49.197 (5), for
 8 *plain* any activities to reduce error and fraud under ss. 49.45 (2) (a) 3m. and 49.79 (9) *and* s.
 9 49.97, to pay federal sanctions under the food stamp program, and for food stamp
 10 reinvestment activities under reinvestment agreements with the federal
 11 department of agriculture that are designed to improve the food stamp program.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

****NOTE: Does this appropriation text need to be expanded to cover more than MA and the food stamp program?

SECTION 2. 20.445 (3) (dz) of the statutes is amended to read:

20.445 (3) (dz) *Temporary Assistance for Needy Families programs; maintenance of effort.* The amounts in the schedule, less the amounts withheld under s. 49.143 (3), for administration and benefit payments under Wisconsin Works under ss. 49.141 to 49.161, the learnfare program under s. 49.26, and the work experience program for noncustodial parents under s. 49.36; for payments to local governments, organizations, tribal governing bodies, and Wisconsin Works agencies; for emergency assistance for families with needy children under s. 49.138; and for job access loans under s. 49.147 (6). Payments may be made from this appropriation for ^{any} ~~contracts~~ under s. 49.97 (~~6~~) or for ^{plain} ~~any~~ fraud investigation and error reduction activities under s. ~~49.197 (1m)~~ ~~49.32 (7m)~~. Moneys appropriated under this paragraph may be used to match federal funds received under par. (md). Notwithstanding ss. 20.001 (3) (a) and 20.002 (1), the department may transfer funds between fiscal years under this paragraph. Notwithstanding ss. 20.001 (3) and 20.002 (1), the department of health and family services shall credit or deposit into this appropriation account funds for the purposes of this appropriation that the department transfers from the appropriation account under s. 20.435 (7) (bc). All funds allocated by the department but not encumbered by December 31 of each year lapse to the general fund on the next January 1 unless transferred to the next calendar year by the joint committee on finance.

SECTION 3. 20.445 (3) (L) of the statutes is amended to read:

20.445 (3) (L) *Public assistance overpayment recovery and fraud and error reduction.* All moneys received as the state's share of the recovery of overpayments

1 and incorrect payments under s. 49.191 (3) (c), 1997 stats., and s. 49.195, 1997 stats.,
2 for ^{any} contracts under s. 49.97 (5) or for ⁴ any activities to reduce error and fraud under
3 s. ~~49.197~~ ~~49.32~~ ~~17m~~ relating to the Aid to Families with Dependent Children
4 ^{plain} program and the Wisconsin Works program.

5 SECTION 4. 46.03 (44) of the statutes is created to read:

6 46.03 (44) RECOVERING INCORRECT PAYMENTS. The department may recover
7 benefits incorrectly paid under any of the programs administered by the department
8 under this chapter ~~and chs. 49 and 51.~~ ^{or ch. 48, 49, or}

9 SECTION 5. ~~49.197~~ of the statutes is renumbered 49.97 and amended to read:

10 **49.97 Fraud investigation and reduction and error reduction. (1m)**

11 FRAUD INVESTIGATION. From the appropriations under s. 20.445 (3) (dz), (kx), (L),
12 (md), (n), and (nL) 20.435 (4) (bn), (kz), (L), and (nn), the department of health and
13 family services shall establish a program to investigate suspected fraudulent
14 activity on the part of recipients of aid to families with dependent children under s.
15 49.19, on the part of participants in the Wisconsin works program under ss. 49.141
16 to 49.161, medical assistance under subch. IV, food stamp benefits under the food
17 stamp program under 7 USC 2011 to 2036, supplemental security income payments
18 under s. 49.77, payments for the support of children of supplemental security income
19 recipients under s. 49.775, and health care benefits under the Badger Care health
20 care program under s. 49.665 and, if the department of health and family services
21 workforce development contracts with the department of health and family services
22 under sub. (5), on the part of recipients of medical assistance under subch. IV and
23 food stamp benefits under the food stamp program under 7 USC 2011 to 2036 aid to
24 families with dependent children under s. 49.19 and on the part of participants in
25 the Wisconsin Works program under ss. 49.141 to 49.161. The department's

1 activities of the department of health and family services under this subsection may
2 include, but are not limited to, comparisons of information provided to the
3 department by an applicant and information provided by the applicant to other
4 federal, state, and local agencies, development of an advisory welfare investigation
5 prosecution standard, and provision of funds to county departments under ss.
6 46.215, 46.22, and 46.23 and to Wisconsin ~~works~~ Works agencies to encourage
7 activities to detect fraud. The department of health and family services shall
8 cooperate with district attorneys regarding fraud prosecutions.

9 (3) STATE ERROR REDUCTION ACTIVITIES. The department of health and family
10 services shall conduct activities to reduce payment errors in Wisconsin ~~works~~ under
11 ss. ~~49.141 to 49.161~~ the Medical Assistance program under subch. IV, the food stamp
12 program under 7 USC 2011 to 2036, the supplemental security income payments
13 program under s. 49.77, the program providing payments for the support of children
14 of supplemental security income recipients under s. 49.775, and the Badger Care
15 health care program under s. 49.665 and, if the department of health and family
16 services workforce development contracts with the department of health and family
17 services under sub. (5), ~~the medical assistance program under subch. IV and the food~~
18 ~~stamp program under 7 USC 2011 to 2036~~ in Wisconsin Works under ss. 49.141 to
19 49.161.

20 (4) ~~COUNTY AND TRIBAL~~ WISCONSIN WORKS AGENCY ERROR REDUCTION. If the
21 department of health and family services workforce development contracts with the
22 department of health and family services under sub. (5), the department of health
23 and family services shall provide funds from the appropriation under s. 20.445 (3)
24 ~~(kx) to counties and governing bodies of federally recognized American Indian tribes~~
25 ~~administering medical assistance under subch. IV or the food stamp program under~~

1 ~~7 USC 2011 to 2036 20.435 (3) (kz) to Wisconsin Works agencies to offset the~~
2 ~~administrative costs of reducing payment errors in those programs Wisconsin Works~~
3 ~~under ss. 49.141 to 49.161.~~

4 (5) ~~CONTRACTS CONTRACT FOR MEDICAL ASSISTANCE AND FOOD STAMPS WISCONSIN~~
5 ~~WORKS.~~ The department of ~~health and family services~~ workforce development may
6 contract with the department of health and family services to investigate suspected
7 fraudulent activity on the part of recipients of medical assistance under subch. IV
8 or recipients of food stamp benefits under the food stamp program under ~~7 USC 2011~~
9 ~~to 2036~~ participants in Wisconsin Works under ss. 49.141 to 49.161 as provided in
10 this section.

11 **SECTION 6.** 49.32 (7m) of the statutes is created to read:

12 49.32 (7m) FRAUD INVESTIGATION AND ERROR REDUCTION. If the department does
13 not contract with the department of health and family services under s. 49.97 (5), the
14 department shall establish a program to investigate suspected fraudulent activity
15 on the part of recipients of aid to families with dependent children under s. 49.19 and
16 on the part of participants in Wisconsin Works under ss. 49.141 to 49.161 and shall
17 establish a program to reduce payment errors in Wisconsin Works under ss. 49.141
18 to 49.161.

19 **SECTION 7.** 49.45 (2) (a) 3m. of the statutes is repealed.

20 **SECTION 8.** 49.77 (6) of the statutes is created to read:

21 49.77 (6) AUTHORITY TO ADMINISTER. The department shall administer this
22 section and s. 49.775. *Insert 6-22*

23 **SECTION 9.** 49.78 (8) (a) of the statutes is amended to read:

24 49.78 (8) (a) From the appropriation accounts under s. 20.435 (4) (bn) and (nn)
25 and subject to par. (b), the department shall reimburse each county and tribal

Insert 6-18

→ RULES ← CS

governing body that contracts with the department under sub. (2) for reasonable costs of administering the income maintenance programs. The amount of each reimbursement paid under this paragraph shall be calculated using a formula based on workload within the limits of available state and federal funds under s. 20.435 (4) (bn) and (nn) by contract under sub. (2). The amount of reimbursement calculated under this paragraph and par. (b) is in addition to any reimbursement provided to a county or tribal governing body for fraud and error reduction under s. 49.197 (1m) and (4). ← plain period → or 49.845✓

SECTION 10. 49.79 (9) of the statutes is repealed.

SECTION 11. 978.05 (4m) of the statutes is amended to read:

978.05 (4m) WELFARE FRAUD INVESTIGATIONS. Cooperate with the department of workforce development health and family services regarding the fraud investigation program under s. 49.197 49.97 (1m).

(END)

Insert 7-13 ✓

D - note
(after inserts)
↓

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INSERT A-1

not, and authorizes DHFS to promulgate rules to guide the administration of eligibility determinations and benefits payments under the programs

(END OF INSERT A-1)

INSERT A-2

not, and provides that DHFS may recover overpayments by reducing the benefits of a family or individual who received the overpayments and who is still receiving benefits. The bill authorizes DHFS to specify by rule other methods for recovering incorrectly paid benefits, and ~~includes~~ recovery of these incorrectly paid benefits *provides for* ~~in the process under current law whereby benefits that were incorrectly paid under the Medical Assistance (MA) program or the food stamp program may be recovered through a state income tax refund setoff process~~

(END OF INSERT A-2)

INSERT A-3

not maintains the requirement for DWD to investigate fraud and conduct error reduction activities and the authorization for DHFS to contract with DWD, but adds an alternative fraud and error reduction scheme for both departments. Under the bill,

(END OF INSERT A-3)

INSERT A-4

not Thus, each department must either conduct its own investigation and error reduction activities or contract with the other department to do so.

(END OF INSERT A-4)

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CHILDREN

not Under current law, DHFS or a county department of human services or social services (county department) provides monthly payments to foster parents, treatment foster parents, kinship care relatives, and long-term kinship care relatives who provide care and maintenance for children. DHFS also provides adoption assistance, including monthly maintenance payments, to adoptive parents to assist in the cost of the care of children with special needs. This bill permits DHFS or a county department to recover an overpayment of foster care, treatment foster

care, kinship care, long-term kinship care, and adoption assistance payments from a foster parent, treatment foster parent, kinship care relative, long-term kinship care relative, or adoptive parent who continues to receive those payments by reducing those payments by no more than 100. The bill also permits DHFS to specify by rule other methods for recovering those payments.

(END OF INSERT GMM) percent

INSERT 6-18

108

1 SECTION 1. 20.435 (4) (L) of the statutes is amended to read:
2 20.435 (4) (L) ~~Medical assistance and food stamp fraud~~ Fraud and error
3 reduction. All moneys received as the state's share of the recovery of overpayments
4 and incorrect payments under ss. 49.847, 49.497 (1), and 49.793 (2) and all moneys
5 received from counties and tribal governing bodies as a result of any error reduction
6 activities ~~in the medical assistance and food stamp programs~~ under ss. 49.45 (2) (a)
7 ~~3m.~~, 49.197, and 49.79 (9) and 49.845, for any contracts under s. 49.197 (5), for any
8 activities to reduce error and fraud under ss. 49.45 (2) (a) ~~3m.~~ and 49.79 (9) s. 49.845,
9 to pay federal sanctions under the food stamp program, and for food stamp
10 reinvestment activities under reinvestment agreements with the federal
11 department of agriculture that are designed to improve the food stamp program.

History: 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32, 52, 84, 103, 109, 113, 133, 185, 186; 2001 a. 16, 69, 103, 105; 2003 a. 33, 139, 186, 318, 320, 326, 327.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

****NOTE: By eliminating the specific references to MA and the food stamp program, I have expanded this appropriation so that it includes all of the programs for which fraud and error reduction activities must be conducted under s. 49.845. Is this okay?

I have also added to this appropriation all moneys received under proposed s. 49.847. Is this okay, or do you want a new appropriation that specifies other purposes for the moneys received under that section?

12 SECTION 2. 20.445 (3) (dz) of the statutes is amended to read:



Ins 6-18 contd 288

20.445 (3) (dz) *Temporary Assistance for Needy Families programs;*
maintenance of effort. The amounts in the schedule, less the amounts withheld
under s. 49.143 (3), for administration and benefit payments under Wisconsin Works
under ss. 49.141 to 49.161, the learnfare program under s. 49.26, and the work
experience program for noncustodial parents under s. 49.36; for payments to local
governments, organizations, tribal governing bodies, and Wisconsin Works agencies;
for emergency assistance for families with needy children under s. 49.138; and for
job access loans under s. 49.147 (6). Payments may be made from this appropriation
for any contracts under s. 49.845 (4) ^{and} ~~or~~ for any fraud investigation and error
reduction activities under s. 49.197 (1m). Moneys appropriated under this
paragraph may be used to match federal funds received under par. (md).
Notwithstanding ss. 20.001 (3) (a) and 20.002 (1), the department may transfer funds
between fiscal years under this paragraph. Notwithstanding ss. 20.001 (3) and
20.002 (1), the department of health and family services shall credit or deposit into
this appropriation account funds for the purposes of this appropriation that the
department transfers from the appropriation account under s. 20.435 (7) (bc). All
funds allocated by the department but not encumbered by December 31 of each year
lapse to the general fund on the next January 1 unless transferred to the next
calendar year by the joint committee on finance.

History: 1971 c. 125 ss. 156, 522 (1); 1971 c. 211, 215; 1971 c. 228 s. 44; 1971 c. 259; 1973 c. 90, 180, 243, 333; 1975 c. 39, 147, 224, 274, 344; 1975 c. 404 ss. 3, 10 (1); 1975 c. 405 ss. 3, 11 (1); 1977 c. 29, 48, 203, 418; 1979 c. 34 ss. 512 to 522, 2102 (25) (a); 1979 c. 189, 221, 309; 1979 c. 329 s. 25 (1); 1979 c. 350 ss. 3, 27 (6); 1979 c. 353, 355; 1981 c. 20, 36, 92, 93, 317, 325, 364; 1983 a. 8; 1983 a. 27 ss. 411 to 425; 1983 a. 98 ss. 1, 31; 1983 a. 192, 384, 388, 410; 1985 a. 17, 29, 153, 313, 332; 1987 a. 27; 1987 a. 38 ss. 2 to 4, 136; 1987 a. 399, 403; 1989 a. 31, 44, 64, 77, 254, 284, 359; 1991 a. 39 ss. 372c, 545r, 545t, 545v, 547, 548, 548g, 548m, 549, 549b, 549g, 549p; 1991 a. 85, 89, 269, 315; 1993 a. 16, 126, 243, 437, 491; 1995 a. 27 ss. 772mm, 772mn, 776p to 778b, 778L, 778n, 778q, 778v, 778z to 780m, 781m to 782p, 782u, 841, 842, 849, 850, 854, 855, 858c, 873 to 876, 878, 880, 890 to 896, 962 to 1014c, 9126 (19), 9130 (4); 1995 a. 113 s. 2t; 1995 a. 117, 201, 216, 225, 289; 1995 a. 404 ss. 4, 6 to 8, 10 to 17; 1997 a. 3; 1997 a. 27 ss. 610 to 642m, 722; 1997 a. 35, 38, 39, 105, 112, 191, 235, 236, 237, 252; 1999 a. 9 ss. 270, 458 to 478; 1999 a. 15, 32; 2001 a. 16, 35, 43, 104, 109; 2003 a. 33, 197.

SECTION 3. 20.445 (3) (L) of the statutes is amended to read:

20.445 (3) (L) *Public assistance overpayment recovery and fraud and error*
reduction. All moneys received as the state's share of the recovery of overpayments

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and

398

1 and incorrect payments under s. 49.191 (3) (c), 1997 stats., and s. 49.195, 1997 stats.,
2 for any contracts under s. 49.845 (4) ~~of~~ for any activities to reduce error and fraud
3 under s. 49.197 relating to the Aid to Families with Dependent Children program
4 and the Wisconsin Works program.

History: 1971 c. 125 ss. 156, 522 (1); 1971 c. 211, 215; 1971 c. 228 s. 44; 1971 c. 259; 1973 c. 90, 180, 243, 333; 1975 c. 39, 147, 224, 274, 344; 1975 c. 404 ss. 3, 10 (1); 1975 c. 405 ss. 3, 11 (1); 1977 c. 29, 48, 203, 418; 1979 c. 34 ss. 512 to 522, 2102 (25) (a); 1979 c. 189, 221, 309; 1979 c. 329 s. 25 (1); 1979 c. 350 ss. 3, 27 (6); 1979 c. 353, 355; 1981 c. 20, 36, 92, 93, 317, 325, 364; 1983 a. 8; 1983 a. 27 ss. 411 to 425; 1983 a. 98 ss. 1, 31; 1983 a. 192, 384, 388, 410; 1985 a. 17, 29, 153, 313, 332; 1987 a. 27; 1987 a. 38 ss. 2 to 4, 136; 1987 a. 399, 403; 1989 a. 31, 44, 64, 77, 254, 284, 359; 1991 a. 39 ss. 372c, 545r, 545t, 545v, 547, 548, 548g, 548m, 549, 549b, 549g, 549p; 1991 a. 85, 89, 269, 315; 1993 a. 16, 126, 243, 437, 491; 1995 a. 27 ss. 772mm, 772nn, 776p to 778b, 778L, 778n, 778q, 778v, 778z to 780m, 781m to 782p, 782u, 841, 842, 849, 850, 854, 855, 858c, 873 to 876, 878, 880, 890 to 896, 962 to 1014c, 9126 (19), 9130 (4); 1995 a. 113 s. 2t; 1995 a. 117, 201, 216, 225, 289; 1995 a. 404 ss. 4, 6 to 8, 10 to 17; 1997 a. 3; 1997 a. 27 ss. 610 to 642m, 722; 1997 a. 35, 38, 39, 105, 112, 191, 235, 236, 237, 252; 1999 a. 9 ss. 270, 458 to 478; 1999 a. 15, 32; 2001 a. 16, 35, 43, 104, 109; 2003 a. 33, 197.

5 **SECTION 4.** 48.57 (3m) (h) of the statutes is created to read:

6 48.57 (3m) (h) A county department or, in a county having a population of
7 500,000 or more, the department may recover an overpayment made under par. (am)
8 from a kinship care relative who continues to receive payments under par. (am) by
9 reducing the amount of the kinship care relative's monthly payment by no more than
10 10 percent. The department may by rule specify other methods for recovering
11 overpayments made under par. (am). A county department that recovers an
12 overpayment under this paragraph due to the efforts of its officers and employees
13 may retain a portion of the amount recovered, as provided by the department by rule.

14 **SECTION 5.** 48.57 (3n) (h) of the statutes is created to read:

15 48.57 (3n) (h) A county department or, in a county having a population of
16 500,000 or more, the department may recover an overpayment made under par. (am)
17 from a long-term kinship care relative who continues to receive payments under par.
18 (am) by reducing the amount of the long-term kinship care relative's monthly
19 payment by no more than 10 percent. The department may by rule specify other
20 methods for recovering overpayments made under par. (am). A county department
21 that recovers an overpayment under this paragraph due to the efforts of its officers



Sub 6-18 contd

488

1 and employees may retain a portion of the amount recovered, as provided by the
2 department by rule.

3 **SECTION 6.** 48.62 (5) of the statutes is created to read:

4 48.62 (5) The department or a county department may recover an overpayment
5 made under sub. (4) from a foster parent or treatment foster parent who continues
6 to receive payments under sub. (4) by reducing the amount of the foster parent's or
7 treatment foster parent's monthly payment by no more than 10 percent. The
8 department may by rule specify other methods for recovering overpayments made
9 under sub. (4). A county department that recovers an overpayment under this
10 ~~paragraph~~ ^{subsection} due to the efforts of its officers and employees may retain a portion of the
11 amount recovered, as provided by the department by rule.

12 **SECTION 7.** 48.975 (4m) of the statutes is created to read:

13 48.975 (4m) RECOVERY OF INCORRECT PAYMENTS. The department may recover
14 an overpayment of adoption assistance from an adoptive parent who continues to
15 receive adoption assistance for maintenance by reducing the amount of the adoptive
16 parent's monthly payment of adoption assistance for maintenance by no more than
17 10 percent or \$10, whichever is greater. The department may by rule specify other
18 methods for recovering overpayments of adoption assistance.

19 **SECTION 8.** 49.197 (1m) of the statutes is amended to read:

20 49.197 (1m) FRAUD INVESTIGATION. From the appropriations under s. 20.445 (3)
21 (dz), (kx), (L), (md), (n), and (nL), the department shall establish a program to
22 investigate suspected fraudulent activity on the part of recipients of aid to families
23 with dependent children under s. 49.19, on the part of participants in the Wisconsin
24 works Works program under ss. 49.141 to 49.161, and, if the department of health
25 and family services contracts with the department under sub. (5), on the part of

↓

598
Sub 6-18 contd

1 recipients of medical assistance under subch. IV ~~and~~, food stamp benefits under the
2 food stamp program under 7 USC 2011 to 2036, supplemental security income
3 payments under s. 49.77, payments for the support of children of supplemental
4 security income recipients under s. 49.775, and health care benefits under the
5 Badger Care health care program under s. 49.665. The department's activities under
6 this subsection may include, but are not limited to, comparisons of information
7 provided to the department by an applicant and information provided by the
8 applicant to other federal, state, and local agencies, development of an advisory
9 welfare investigation prosecution standard, and provision of funds to county
10 departments under ss. 46.215, 46.22, and 46.23 and to Wisconsin ~~works~~ Works
11 agencies to encourage activities to detect fraud. The department shall cooperate
12 with district attorneys regarding fraud prosecutions.

History: 1985 a. 29, 176; 1987 a. 27, 413; 1989 a. 31; 1991 a. 39; 1995 a. 27, 289; 1997 a. 27, 35; 2001 a. 16.

13 **SECTION 9.** 49.197 (3) of the statutes is amended to read:

14 49.197 (3) STATE ERROR REDUCTION ACTIVITIES. The department shall conduct
15 activities to reduce payment errors in Wisconsin ~~works~~ Works under ss. 49.141 to
16 49.161 and, if the department of health and family services contracts with the
17 department under sub. (5), the ~~medical assistance~~ Medical Assistance program
18 under subch. IV ~~and~~, the food stamp program under 7 USC 2011 to 2036, the
19 supplemental security income payments program under s. 49.77, the program
20 providing payments for the support of children of supplemental security income
21 recipients under s. 49.775, and the Badger Care health care program under s. 49.665.

History: 1985 a. 29, 176; 1987 a. 27, 413; 1989 a. 31; 1991 a. 39; 1995 a. 27, 289; 1997 a. 27, 35; 2001 a. 16.

22 **SECTION 10.** 49.197 (4) of the statutes is amended to read:

23 49.197 (4) COUNTY AND TRIBAL ERROR REDUCTION. If the department of health and
24 family services contracts with the department under sub. (5), the department shall



June 6-18 cont'd

provide funds from the appropriation under s. 20.445 (3) (kx) to counties and governing bodies of federally recognized American Indian tribes administering ~~medical assistance~~ Medical Assistance under subch. IV ~~or~~ the food stamp program under 7 USC 2011 to 2036, the supplemental security income payments program under s. 49.77, the program providing payments for the support of children of supplemental security income recipients under s. 49.775, and the Badger Care health care program under s. 49.665 to offset administrative costs of reducing payment errors in those programs.

History: 1985 a. 29, 176; 1987 a. 27, 413; 1989 a. 31; 1991 a. 39; 1995 a. 27, 289; 1997 a. 27, 35; 2001 a. 16.

SECTION 11. 49.197 (5) of the statutes is amended to read:

49.197 (5) CONTRACTS FOR MEDICAL ASSISTANCE AND FOOD STAMPS. ~~The~~ Notwithstanding s. 49.845 (1) and (2), the department of health and family services may contract with the department to investigate suspected fraudulent activity on the part of recipients of medical assistance under subch. IV ~~or recipients of~~ food stamp benefits under the food stamp program under 7 USC 2011 to 2036, supplemental security income payments under s. 49.77, payments for the support of children of supplemental security income recipients under s. 49.775, and health care benefits under the Badger Care health care program under s. 49.665 and to conduct activities to reduce payment errors in the Medical Assistance program under subch. IV, the food stamp program under 7 USC 2011 to 2036, the supplemental security income payments program under s. 49.77, the program providing payments for the support of children of supplemental security income recipients under s. 49.775, and the Badger Care health care program under s. 49.665, as provided in this section.

History: 1985 a. 29, 176; 1987 a. 27, 413; 1989 a. 31; 1991 a. 39; 1995 a. 27, 289; 1997 a. 27, 35; 2001 a. 16.

SECTION 12. 49.32 (7) (b) of the statutes is amended to read:



plus 6-18 contd

49.32 (7) (b) The department shall conduct a program to periodically match the records of recipients of aid to families with dependent children under s. 49.19 and, if the department of health and family services contracts with the department under s. 49.197 (5), recipients of medical assistance under subch. IV and, food stamp benefits under the food stamp program under 7 USC 2011 to 2036, supplemental security income payments under s. 49.77, payments for the support of children of supplemental security income recipients under s. 49.775, and health care benefits under the Badger Care health care program under s. 49.665 with the records of recipients under those programs in other states. If an agreement with the other states can be obtained, matches with records of states contiguous to this state shall be conducted at least annually.

or comparable programs

History: 1995 a. 27 ss. 2035 to 2037, 2276d, 2805 to 2809, 2927 to 2930, 3146 to 3149; 1995 a. 289, 361, 370, 404; 1997 a. 27, 35, 237, 252, 283; 2001 a. 16; 2003 a. 33.

SECTION 13. 49.32 (7) (c) of the statutes is amended to read:

49.32 (7) (c) The department shall conduct a program to periodically match the address records of recipients of aid to families with dependent children under s. 49.19 and, if the department of health and family services contracts with the department under s. 49.197 (5), recipients of medical assistance under subch. IV and, food stamp benefits under the food stamp program under 7 USC 2011 to 2036, supplemental security income payments under s. 49.77, payments for the support of children of supplemental security income recipients under s. 49.775, and health care benefits under the Badger Care health care program under s. 49.665 to verify residency and to identify recipients receiving duplicate or fraudulent payments.

History: 1995 a. 27 ss. 2035 to 2037, 2276d, 2805 to 2809, 2927 to 2930, 3146 to 3149; 1995 a. 289, 361, 370, 404; 1997 a. 27, 35, 237, 252, 283; 2001 a. 16; 2003 a. 33.

SECTION 14. 49.32 (7) (d) of the statutes is amended to read:

49.32 (7) (d) The department, with assistance from the department of corrections, shall conduct a program to periodically match the records of persons



Ins 6-18 cont'd

898

*9-deck
spacing*

1 confined in state correctional facilities with the records of recipients of aid to families
2 with dependent children under s. 49.19 and, if the department of health and family
3 services contracts with the department under s. 49.197 (5), recipients of medical
4 assistance under subch. IV ~~and~~, food stamp benefits under the food stamp program
5 under 7 USC 2011 to 2036, supplemental security income payments under s. 49.77
6 payments for the support of children of supplemental security income recipients
7 under s. 49.775, and health care benefits under the Badger Care health care program
8 under s. 49.665 to identify recipients who may be ineligible for benefits.

History: 1995 a. 27 ss. 2035 to 2037, 2276d, 2805 to 2809, 2927 to 2930, 3146 to 3149; 1995 a. 289, 361, 370, 404; 1997 a. 27, 35, 237, 252, 283; 2001 a. 16; 2003 a. 33.
(END OF INSERT 6-18)

INSERT 6-22

9 *not*, and may promulgate rules to guide the administration of eligibility
10 determinations and benefits payments

(END OF INSERT 6-22)

INSERT 7-13

1576

11 SECTION 15. 49.845 of the statutes is created to read:

12 **49.845 Fraud investigation and reduction and error reduction.** (1)

13 FRAUD INVESTIGATION. From the appropriations under s. 20.435 (4) (bn), (kz), (L), and
14 (nn), the department of health and family services shall establish a program to
15 investigate suspected fraudulent activity on the part of recipients of medical
16 assistance under subch. IV, food stamp benefits under the food stamp program under
17 7 USC 2011 to 2036, supplemental security income payments under s. 49.77,
18 payments for the support of children of supplemental security income recipients
19 under s. 49.775, and health care benefits under the Badger Care health care program



ens 7-13 contd

206

1 under s. 49.665 and, if the department of workforce development contracts with the
2 department of health and family services under sub. (4),[✓] on the part of recipients of
3 aid to families with dependent children under s. 49.19[✓] and participants in the
4 Wisconsin Works program under ss. 49.141 to 49.161.[✓] The activities of the
5 department of health and family services under this subsection[✓] may include
6 comparisons of information provided to the department by an applicant and
7 information provided by the applicant to other federal, state, and local agencies,
8 development of an advisory welfare investigation prosecution standard, and
9 provision of funds to county departments under ss. 46.215, 46.22, and 46.23[✓] and to
10 Wisconsin Works agencies to encourage activities to detect fraud. The department
11 of health and family services[✓] shall cooperate with district attorneys regarding fraud
12 prosecutions.

13 (2) STATE ERROR REDUCTION ACTIVITIES.[✓] The department of health and family
14 services shall conduct activities to reduce payment errors in the Medical Assistance
15 program[✓] under subch. IV, the food stamp program under 7 USC 2011 to 2036, the
16 supplemental security income payments program under s. 49.77,[✓] the program
17 providing payments for the support of children of supplemental security income
18 recipients under s. 49.775,[✓] and the Badger Care health care program under s. 49.665[✓]
19 and, if the department of workforce development contracts with the department of
20 health and family services under sub. (4),[✓] in Wisconsin Works under ss. 49.141 to
21 49.161.

22 (3) WISCONSIN WORKS AGENCY ERROR REDUCTION.[✓] If the department of workforce
23 development contracts with the department of health and family services under sub.
24 (5),[✓] the department of health and family services shall provide funds from the
25 appropriation under s. 20.435 (3) (kz)[✓] to Wisconsin Works agencies to offset the

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Ins 7-13 cont'd 306

1 administrative costs of reducing payment errors in Wisconsin Works under ss.
2 49.141 to 49.161.

3 (4) CONTRACT FOR WISCONSIN WORKS. Notwithstanding s. 49.197 (1m) and (3),
4 the department of workforce development may contract with the department of
5 health and family services to investigate suspected fraudulent activity on the part
6 of participants in Wisconsin Works under ss. 49.141 to 49.161 and to conduct
7 activities to reduce payment errors in Wisconsin Works under ss. 49.141 to 49.161,
8 as provided in this section.

9 **SECTION 16.** 49.847 of the statutes is created to read:

10 **49.847 Recovery of incorrect payments under certain public**
11 **assistance programs.** (1) Subject to ss. 49.497 (1) and 49.793 (1), the department
12 of health and family services, or a county or elected governing body of a federally
13 recognized American Indian tribe or band acting on behalf of the department, may
14 recover benefits incorrectly paid under any of the programs administered by the
15 department under this chapter.

16 (2) The department, county, or elected governing body may recover an
17 overpayment from a family or individual who continues to receive benefits under any
18 program administered by the department under this chapter by reducing the
19 family's or individual's benefit amount. Subject to s. 49.793 (1), if the family's or
20 individual's benefit consists of a monthly amount, that amount may not be reduced
21 under this subsection by more than 10 percent or \$10, whichever is greater. The
22 department may by rule specify other methods for recovering incorrectly paid
23 benefits.

24 (3) Subject to ss. 49.497 (2) and 49.793 (2), a county or elected governing body
25 may retain a portion of an amount recovered under this section due to the efforts of

Recipients of aid to families with dependent children under s. 49.19 and

Ins 7-13 cont'd 46/6

an employee or officer of the county, tribe, or band, as provided by the department by rule.

SECTION 17. 49.85 (1) of the statutes is amended to read:

49.85 (1) DEPARTMENT NOTIFICATION REQUIREMENT. If a county department under s. 46.215, 46.22, or 46.23 or a governing body of a federally recognized American Indian tribe or band determines that the department of health and family services may recover an amount under s. 49.497, 49.793, or 49.847, or that the department of workforce development may recover an amount under s. 49.161, or 49.195 (3), or 49.793, or collect an amount under s. 49.147 (6) (cm), the county department or governing body shall notify the affected department of the determination. If a Wisconsin ~~works~~ Works agency determines that the department of workforce development may recover an amount under s. 49.161 or 49.195 (3), or collect an amount under s. 49.147 (6) (cm), the Wisconsin ~~works~~ Works agency shall notify the department of workforce development of the determination.

History: 1993 a. 437, 1995 a. 27 ss. 2143 to 2157, 3212, 9126 (19), 9130 (4); Stats. 1995 s. 49.85; 1995 a. 289; 1997 a. 3; 2001 a. 16; 2003 a. 33.

SECTION 18. 49.85 (2) (a) of the statutes is amended to read:

49.85 (2) (a) At least annually, the department of health and family services shall certify to the department of revenue the amounts that, based on the notifications received under sub. (1) and on other information received by the department of health and family services, the department of health and family services has determined that it may recover under s. 49.45 (2) (a) 10. ~~or~~, 49.497, 49.793, or 49.847, except that the department of health and family services may not certify an amount under this subsection unless it has met the notice requirements

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Ens 7-13 contd 596

1 under sub. (3) and unless its determination has either not been appealed or is no
2 longer under appeal.

3 **History:** 1993 a. 437, 1995 a. 27 ss. 2143 to 2157, 3212, 9126 (19), [✓]9130 (4); Stats. 1995 s. 49.85; 1995 a. 289; 1997 a. 3; 2001 a. 16; 2003 a. 33.

SECTION 19. 49.85 (2) (b) of the statutes is amended to read:

4 49.85 (2) (b) At least annually, the department of workforce development shall
5 certify to the department of revenue the amounts that, based on the notifications
6 received under sub. (1) and on other information received by the department of
7 workforce development, the department of workforce development has determined
8 that it may recover under ss. 49.161, and 49.195 (3), [✓]~~and 49.793~~, and collect under
9 s. 49.147 (6) (cm), except that the department of workforce development may not
10 certify an amount under this subsection unless it has met the notice requirements
11 under sub. (3) and unless its determination has either not been appealed or is no
12 longer under appeal.

13 **History:** 1993 a. 437, 1995 a. 27 ss. 2143 to 2157, 3212, 9126 (19), [✓]9130 (4); Stats. 1995 s. 49.85; 1995 a. 289; 1997 a. 3; 2001 a. 16; 2003 a. 33.

SECTION 20. 49.85 (3) (a) 1. of the statutes is amended to read:

14 49.85 (3) (a) 1. Inform the person that the department of health and family
15 services intends to certify to the department of revenue an amount that the
16 department of health and family services has determined to be due under s. 49.45
17 (2) (a) 10. ^{check spacing} ~~or, 49.497, 49.793, or 49.847~~, for setoff from any state tax refund that may
18 be due the person.

19 **History:** 1993 a. 437, 1995 a. 27 ss. 2143 to 2157, 3212, 9126 (19), [✓]9130 (4); Stats. 1995 s. 49.85; 1995 a. 289; 1997 a. 3; 2001 a. 16; 2003 a. 33.

SECTION 21. 49.85 (3) (b) 1. of the statutes is amended to read:

20 49.85 (3) (b) 1. Inform the person that the department of workforce
21 development intends to certify to the department of revenue an amount that the
22 department of workforce development has determined to be due under s. 49.161, or



Ins 7-13 cont'd 6086

49.195 (3), [✓]or ~~49.793~~, or to be delinquent under a repayment agreement for a loan under s. 49.147 (6), for setoff from any state tax refund that may be due the person.

History: 1993 a. 437, 1995 a. 27 ss. 2143 to 2157, 3212, 9126 (19), 9130 [✓](4); Stats. 1995 s. 49.85; 1995 a. 289; 1997 a. 3; 2001 a. 16; 2003 a. 33.

SECTION 22. 71.93 (1) (a) 3. of the statutes is amended to read:

71.93 (1) (a) 3. An amount that the department of health and family services may recover under s. 49.45 (2) (a) 10. ~~or~~, 49.497, 49.793, or 49.847, [✓]if the department of health and family services has certified the amount under s. 49.85.

History: 1987 a. 312; 1989 a. 31; 1993 a. 437; 1995 a. 27 ss. 3427 to 3429, 9126 (19), 9130 (4); 1995 a. 404; 1997 a. 3, 27; 2001 a. 16; 2003 a. 33.

SECTION 23. 71.93 (1) (a) 4. of the statutes is amended to read:

71.93 (1) (a) 4. An amount that the department of workforce development may recover under s. 49.161, [✓]or 49.195 (3), ~~or 49.793~~, ^{strikes}or ~~may~~ collect under s. 49.147 (6) (cm), if the department of workforce development has certified the amount under s. 49.85.

History: 1987 a. 312; 1989 a. 31; 1993 a. 437; 1995 a. 27 ss. 3427 to 3429, 9126 (19), 9130 (4); 1995 a. 404; 1997 a. 3, 27; 2001 a. 16; 2003 a. 33.

SECTION 24. 978.05 (4m) of the statutes is amended to read:

978.05 (4m) WELFARE FRAUD INVESTIGATIONS. Cooperate with the department [✓]departments of workforce development and health and family services regarding the fraud investigation ~~program~~ programs under s. ss. 49.197 (1m) and 49.845 (1).

History: 1989 a. 31, 117, 336; 1991 a. 16, 32, 39; 1993 a. 98; 1995 a. 27 ss. 7291, 7292, 9116 (5), 9130 (4); 1995 a. 77, 201, 448; Sup. Ct. Order No. 96-08, 207 Wis. 2d xv (1997); 1997 a. 3, 35, 73; 1999 a. 9; 2001 a. 16.

(END OF INSERT 7-13)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0265/P2dn

GMM:.....

+
PTK JLD

Steve:

Section 46.036 (5) [✓] already permits DHFS and the county departments to recover overpayments made to a contracted provider from subsequent payments made to the provider. Section 46.036 (1) [✓] however, exempts foster homes and contracts of under \$10,000 from the written contract requirement. Accordingly, this draft applies the reduction of payments method of overpayment recovery specifically to kinship care, long-term kinship care, foster care, treatment foster care, and adoption assistance under ch. 48. [✓]

Also, on further review, I agree that no new appropriations are necessary because the draft recovers the overpayments by withholding moneys, not by taking moneys in.

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: gordon.malaise@legis.state.wi.us



~~DRAFTER'S NOTE~~
~~FROM THE~~
~~LEGISLATIVE REFERENCE BUREAU~~

~~LRB-0265/P2dn~~
~~PJK:jd:pg~~

D-note
cont.

↓
To provide maximum flexibility, I required both DWD and DHFS to conduct fraud and error reduction activities, and also authorized both agencies to contract with the other agency for those activities. This does not change the current law requirement for DWD, but under the bill DWD may, alternatively, contract with DHFS to have DHFS conduct those activities for DWD's programs, which is what takes place now, as I understand it.

I added specific authority for certain rules, but DHFS does not need authority in addition to ch. 227 to promulgate rules for the general administration of a program or for the interpretation of a statute that it enforces or administers. See s. 227.11 (2). In fact, expressly providing general rule-making authority at some places in the statutes outside of ch. 227 may lead to the erroneous conclusion that rule-making authority does not exist unless it is expressly provided, which would create obvious problems.

I made a number of technical corrections in this draft where the statutory citation for the food stamp program had been changed to s. 49.793 but the agency administering it had not been changed.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0265/P2dn
GMM&PJK:jld:pg

December 21, 2004

Steve:

Section 46.036 (5) already permits DHFS and the county departments to recover overpayments made to a contracted provider from subsequent payments made to the provider. Section 46.036 (1), however, exempts foster homes and contracts of under \$10,000 from the written contract requirement. Accordingly, this draft applies the reduction of payments method of overpayment recovery specifically to kinship care, long-term kinship care, foster care, treatment foster care, and adoption assistance under ch. 48.

Also, on further review, I agree that no new appropriations are necessary because the draft recovers the overpayments by withholding moneys, not by taking moneys in.

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: gordon.malaise@legis.state.wi.us

To provide maximum flexibility, I required both DWD and DHFS to conduct fraud and error reduction activities, and also authorized both agencies to contract with the other agency for those activities. This does not change the current law requirement for DWD, but under the bill DWD may, alternatively, contract with DHFS to have DHFS conduct those activities for DWD's programs, which is what takes place now, as I understand it.

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I made a number of technical corrections in this draft where the statutory citation for the food stamp program had been changed to s. 49.793 but the agency administering it had not been changed.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.state.wi.us

Kahler, Pam

From: Milioto, Steve
Sent: Friday, January 14, 2005 8:09 AM
To: Malaise, Gordon
Cc: Kahler, Pam
Subject: FW: FW: LRB Draft: 05-0265/P2 Administration of SSI program

Hi Gordon --

Per the message below, I'm assuming you already have these proposed changes. I apologize for the last minute nature of this. Let me know if drafting these changes will be a problem. Best, Steve

-----Original Message-----

From: Cunningham, Curtis
Sent: Thursday, January 13, 2005 5:14 PM
To: Milioto, Steve
Cc: Malaise, Gordon; Luedtke, Kathleen; McIlquham, Cheryl; Simpson, Joanne; Cunningham, Curtis; Forsaith, Andrew; Megna, Richard; Resheske, Mark
Subject: Re: FW: LRB Draft: 05-0265/P2 Administration of SSI program

Steve,

One of our overall points is that you should also have DWD review this draft since the collections unit is at DWD.

Since I will be out of the office tomorrow, please contact Mark Resheske with any concerns. Here are our comments on the draft:

✓ On page 3 the answers to both the questions in the notes are yes.

GMM ✓ Page 4 lines 22 and 23 remove "by no more than 10%"

" ✓ Page 5 line 8 remove "by no more than 10 percent"

" ✓ Page 5 line 17 remove "by no more than 10 percent"

" ✓ Page 6 line 2 remove "10 percent or \$10 whichever is greater"

✓ Page 7 line 19 add "SSI and Care taker Supplement" to the title

✓ Page 8 and 9- Eliminate the amended text under section 12, section 13 and Section 14. This would be a significant administrative burden to perform these matches. It was not part of the proposal to require this and there is no administrative funding to do these additional matches.

✓ Page 10 line 8 eliminate "and reduction from the middle of the title.

D-72 ✓ Page 10 line 19 the Childcare program should also be referenced. D-note - is included

✓ Page 11 line 15 the appropriation should be 20.435 (4) (kz)

✓ Page 12 line 11, delete "that amount may not be reduced under this subsection by more than 10% or \$10, whichever is greater"

It is very important that if at all possible these changes get incorporated. In order to expedite the changes I have copied Gordon.

Regards,
Curtis

>>> Milioto, Steve 12/22/04 12:05PM >>>
Hi Mark --

Let me know if this needs further revisions. Best, Steve

-----Original Message-----

From: Greenslet, Patty [mailto:Patty.Greenslet@legis.state.wi.us]
Sent: Wednesday, December 22, 2004 10:34 AM
To: Milioto, Steve
Cc: Johnston, James; Hanaman, Cathlene; Haugen, Caroline; Merry-Mason, Monica
Subject: LRB Draft: 05-0265/P2 Administration of SSI program

Following is the PDF version of draft 05-0265/P2.